

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSEPH MARION HEAD,

Plaintiff,

v.

UNKNOWN PARTIES et al.,

Defendant.

Case No. 1:04-cv-313

Honorable Richard Alan Enslen

ORDER OF TRANSFER

04-40090 RGS

This is a civil rights action brought by a prisoner ostensibly pursuant to 42 U.S.C. § 1983. Plaintiff presently is incarcerated at the Federal Medical Center-Devens (FMC-Devens) in Ayer, Massachusetts. Plaintiff sues unnamed employees of the FMC-Devens and Warden David L. Winn. In his *pro se* complaint, Plaintiff alleges that Defendants failed to provide him habeas copies and other legal forms, failed to provide him assistance when he told them he had been kidnaped, did not allow him to use the law library and receive mail, and failed to provide him with necessary food clothing and medical care, as well as a pencil and postage. The events of which Petitioner complains therefore arose in Massachusetts.

Under the revised venue statute, venue in federal-question cases lies in the district in which any defendant resides or in which a substantial part of the events or omissions giving rise to the claim occurred. 28 U.S.C. § 1391(b). Defendant Winn and the other unnamed employees are public officials serving in Ayer, Massachusetts, and they “reside” in that county for purposes of venue over a suit challenging official acts. *See Butterworth v. Hill*, 114 U.S. 128, 132 (1885);

O'Neill v. Battisti, 472 F.2d 789, 791 (6th Cir. 1972). In these circumstances, venue is proper only in the District of Massachusetts. Therefore:

IT IS ORDERED that this case be transferred to the United States District Court for the District of Massachusetts pursuant to 28 U.S.C. § 1406(a). The Clerk shall transmit the file forthwith to the Clerk of the Court in Boston, Massachusetts. **It is noted that this Court has not decided Plaintiff's motion to proceed *in forma pauperis*, nor has the Court reviewed Plaintiff's complaint under 28 U.S.C. §§ 1915(e)(2), 1915A, or under 42 U.S.C. § 1997e(c).**

IT IS SO ORDERED.

Date: May 17, 2004

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge

CERTIFIED
ECF DOCUMENT

I hereby attest and certify that this is a printed copy of a document which was electronically filed with the United States District Court for the Western District of Michigan on 5-17-04

RONALD C. WESTON, SR., CLERK OF COURT

By: Berard N. Riefes Dated: 5-18-04
Deputy Clerk